

Program Foodservice Protection

Subject: Revalidation of Restaurant Permits

Issue: The issuance, expiration and revalidation of restaurant permits is an important administrative function of district food programs. In the interest of consistent and effective performance of this duty a clear interpretation of permit issuance, expiration and revalidation has been requested.

Authority Code of Virginia

§ 35.1-18. License required... No person shall... operate any... restaurant... unless the... restaurant... is licensed as provided in this chapter.

§ 35.1-20. Issuance and denial of licenses. The Commissioner shall issue a license for each restaurant... which, after inspection, is found to be in compliance with all applicable regulations and provisions of this title.

Summary: License/permit required for operation. Issuance of said license/permit to follow inspection documenting compliance with regulations.

**Rules and Regulations of the Board of Health, Commonwealth of Virginia,
Governing Restaurants**

§ 2.10 Permits - No person shall... operate any restaurant... in this state unless the restaurant is permitted as provided in this section... Only a person who complies with the requirements of these regulations shall be entitled to receive or retain such a permit.

§ 2.13 Issuance of Permit - Prior to the issuance of a permit, the director or his designee shall inspect the restaurant to determine compliance with the requirements of these regulations. The department shall issue a permit to the applicant if its inspection reveals that the proposed restaurant complies with the requirements of these regulations. The permit shall remain in effect until its expiration date, unless otherwise suspended or revoked... the director shall annually revalidate an existing permit, so long as the original permit holder complies with these regulations...

§ 2.20 Inspection Report - ...An opportunity for hearing on the inspection findings, a time limit, **or** both, shall be granted provided that a written request is filed with the local health department within ten days following the inspection or the cessation of operations...

§ 2.23 F Hearings as a Matter of Right - Any person believing his rights, duties, or privileges have been adversely affected by the department in administering these regulations shall have a right to both of the

above type hearings.

Summary: Reiterates license/permit required for operation. Issuance of said license/permit to follow inspection documenting compliance with regulations. Permit to remain in effect until expiration and re-validated annually contingent upon continued compliance. Opportunity for hearing on inspection report, time limits or any department action to be granted upon written request.

Public Health Rationale: Failure to properly maintain foodservice facilities and equipment can, over time, result in opportunities for contamination of foods from insects, rodents, dust, and debris.

Background: The annual expiration of each restaurant's permit is a valid and effective opportunity to assess and achieve compliance with the regulations, especially with respect to maintenance of physical facilities and equipment.

Procedures:

Permits should be issued for a period of one year with a specific expiration date. To reduce costs of issuance districts may choose to use the same permit document for multiple years. One suggestion is to acknowledge revalidation by signing and dating subsequent "expiration date" lines on the original permit document (in other words it is not necessary to print and mail a new piece of paper to revalidate a permit).

- 2) Permits are in effect until their expiration date. If the director declines to revalidate the permit then that permit is no longer in effect after its expiration date.
- 3) Revalidation "so long as the original permit holder complies with these regulations" should follow an inspection prior to permit expiration to document substantial compliance.
- 4) To protect the operator's right to hearing on inspection report, time limit or other department action the revalidation process (inspection to determine continued compliance for revalidation of permit) should be initiated prior to expiration (for example 60 days) to allow sufficient time for operator to correct deficiencies or request, and be granted a hearing.
- 5) As a further protection of the operator's rights, if the inspection demonstrates deficiencies which would preclude revalidation it should be followed by a notice of violation letter to permit holder advising of-
 - deficiencies noted upon inspection;
 - impending expiration of permit; and,
 - right to request hearing on inspection findings, time limits or other

department action, such request to be in writing and submitted within 10 days of receipt of notice.

- 6) When this process has been followed and continued failure to achieve compliance is documented by re-inspection the permit should not be revalidated. At this time the operator shall be notified, by hand delivery or certified mail, that his permit will not be revalidated, the reasons therefore and that continued operation without a valid permit is a violation of state law.
- 7) Should the "former" restaurant operator subsequently submit an application for a permit and demonstrate compliance with the regulations a new permit should be issued.

Professional Judgment

These procedures for assessment of compliance and revalidation of permits are not intended to replace the professional judgment of the Environmental Health Specialist Senior, Environmental Health Supervisor, Environmental Health Manager, or Health Director in recognizing the need for enforcement action or selection of the appropriate enforcement action in any specific situation.

Responsibility: The district Environmental Health Manager is responsible for the application of these procedures by the district foodservice protection program.

The local Environmental Health Specialist Senior is responsible for the assessment and maintenance of compliance in specific foodservice establishments.

Effective Date: January 1, 1996

Approved by:

Interim Director
Division of Food and Environmental Services

Endorsed by:

Director
Office of Environmental Health Services